

ASSEMBLY, No. 5185

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED MARCH 11, 2019

Sponsored by:

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

Co-Sponsored by:

Assemblywoman McKnight and Assemblyman Spearman

SYNOPSIS

Revises neighborhood revitalization tax credit program to increase permitted annual tax credit allocation to \$15 million.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/28/2019)

1 AN ACT concerning the neighborhood revitalization tax credit
2 program and amending P.L.2001, c.415.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 2 of P.L.2001, c.415 (C.52:27D-491) is amended to
8 read as follows:

9 2. As used in **[this act]** P.L.2001, c.415 (C.52:27D-490 et
10 seq.):

11 "Assistance" means the contribution of moneys to aid in the
12 provision of neighborhood preservation and revitalization services
13 or community services.

14 "Business entity" means any business firm or individual which is
15 authorized to conduct or operate a trade or business in the State and
16 is subject to taxes on business related income.

17 "Certificate for neighborhood revitalization State tax credits"
18 means the certificate in the form prescribed by the Treasurer and
19 issued by the commissioner to a business entity that specifies the
20 dollar amount of neighborhood preservation and revitalization State
21 tax credits that business entity may take as an annual credit against
22 certain State taxes pursuant to P.L.2001, c.415 (C.52:27D-490 et
23 seq.).

24 "Commissioner" means the Commissioner of Community
25 Affairs.

26 "Department" means the Department of Community Affairs.

27 "Eligible neighborhood" means: a. a contiguous area located in
28 one or more municipalities that, at the time of the application to the
29 department for approval of a neighborhood preservation and
30 revitalization plan, **[are either eligible to receive aid under the**
31 **"Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et**
32 **seq.) or coextensive with a school district which qualified prior to**
33 **the effective date of P.L.2007, c.260 (C.18A:7F-43 et al.) for**
34 **designation as an "Abbott district" pursuant to the "Comprehensive**
35 **Educational Improvement and Financing Act of 1996," P.L.1996,**
36 **c.138 (C.18A:7F-1 et al.)]** shall be designated by the commissioner
37 based on factors including, but not limited to, population change,
38 non-seasonal housing vacancy rates, total household and child
39 recipients of the Temporary Assistance for Needy Families or a
40 successor program, poverty levels, unemployment rates, high school
41 completion rates, median household income, property tax rates, and
42 equalized property valuation per capita; or b. an area that (1) is
43 adjacent to a neighborhood that fulfills the requirements of
44 subsection a. of this definition, and has received approval of a
45 neighborhood preservation and revitalization plan pursuant to
46 section 5 of P.L.2001, c.415 (C.52:27D-494); (2) increases the area

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 of the adjacent eligible neighborhood by no more than 25 percent;
2 and (3) shares similar characteristics as determined by the
3 commissioner or the commissioner's designee.

4 "Housing and economic development activities" means those
5 activities carried out in furtherance of a neighborhood preservation
6 and revitalization plan in an eligible neighborhood approved
7 pursuant to P.L.2001, c.415 (C.52:27D-490 et seq.), to improve the
8 housing and economic conditions of the neighborhood; and shall
9 include, without limitation, measures to foster the rehabilitation and
10 construction of housing affordable to low and moderate income
11 households within the neighborhood, including planning, design,
12 rehabilitation, construction, and management of low and moderate
13 income housing, home buyer counseling, and related activities
14 needed to effectuate the rehabilitation and construction of housing
15 affordable to low and moderate income households; measures to
16 increase business activity within the neighborhood, including the
17 rehabilitation and construction of commercial facilities and the
18 provision of assistance to small business entities; and measures to
19 increase the income and labor force participation of neighborhood
20 residents, including provision of education, training, child care and
21 transportation assistance to enable low income neighborhood
22 residents to obtain or retain employment.

23 "Low income household" means a household whose gross
24 household income is less than 50 percent of the median gross
25 household income for the region in which the neighborhood is
26 located for households of similar size as determined by the
27 department.

28 "Moderate income household" means a household whose gross
29 household income is greater than or equal to 50 percent but less
30 than 80 percent of the median gross household income of the region
31 in which the neighborhood is located for households of similar size
32 as determined by the department.

33 "Neighborhood preservation and revitalization activities" means
34 housing and economic development activities and other
35 neighborhood preservation and revitalization activities.

36 "Neighborhood Revitalization Plan" means a plan for the
37 preservation or revitalization of an eligible neighborhood.

38 "Nonprofit organization" means a private nonprofit corporation
39 that has been determined by the Internal Revenue Service of the
40 United States Department of the Treasury to be exempt from
41 income taxation under 26 U.S.C.s.501(c)(3).

42 "Other Neighborhood Revitalization Activities" means those
43 activities, other than housing and economic development activities,
44 carried out in furtherance of a State-approved neighborhood
45 preservation and revitalization plan in a qualified low and moderate
46 income neighborhood, and may include, without limitation,
47 improvements to infrastructure, street scape, public open space, and
48 transportation systems; provision of social and community services,

1 health care, crime prevention, recreation activities, community and
2 environmental health services; and community outreach and
3 organizing activities.

4 "Qualified nonprofit organization" means a nonprofit
5 organization that has demonstrated a commitment to the
6 neighborhood for which it is submitting a plan or project, as
7 reflected in its past activities or proposed activities in a preservation
8 and revitalization plan.

9 "Qualified project" means one or more housing and economic
10 development activities and which may also include one or more
11 other neighborhood revitalization activities to be carried out in
12 accordance with a neighborhood revitalization plan as approved by
13 the commissioner with funds provided by a business entity eligible
14 to receive a certificate for neighborhood revitalization State tax
15 credits.

16 "Similar characteristics" means comparable socioeconomic
17 qualities as determined by the commissioner or his designee, using
18 the smallest Census unit for which data are available.

19 (cf: P.L.2009, c.120, s.1)

20

21 2. Section 3 of P.L.2001, c.415 (C.52:27D-492) is amended to
22 read as follows:

23 3. A business entity shall be eligible for a certificate for
24 neighborhood revitalization State tax credits if it has provided
25 funding for a qualified project that has been approved in accordance
26 with sections 4 and 5 of P.L.2001, c.415 (C.52:27D-493 and
27 C.52:27D-494).

28 a. Credits may be granted in an amount up to 100 percent of
29 the approved assistance provided to a nonprofit organization to
30 implement a qualified neighborhood preservation and revitalization
31 project.

32 b. The credit may be applied by the business entity receiving
33 the certificate as credit against tax imposed on business related
34 income including, but not limited to, business income subject to the
35 provisions of the Corporation Business Tax Act (1945), P.L.1945,
36 c.162 (C.54:10A-1 et al.), "New Jersey Gross Income Tax Act,"
37 N.J.S.54A:1-1 et seq., ["The Savings Institution Tax Act,"
38 P.L.1973, c.31 (C.54:10D-1 et seq.),] the tax imposed on marine
39 insurance companies pursuant to R.S.54:16-1 et seq., the tax
40 imposed on insurers generally, pursuant to P.L.1945, c.132
41 (C.54:18A-1 et seq.), the sewer and water utility excise tax imposed
42 pursuant to section 6 of P.L.1940, c.5 (C.54:30A-54) and the
43 petroleum products gross receipts tax imposed pursuant to section 3
44 of P.L.1990, c.42 (C.54:15B-3).

45 For a taxpayer applying credit to liability due pursuant to the
46 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., the
47 credit allowed pursuant to this section shall only be applied to the
48 amount of gross income tax liability for the taxable year, which as a

percentage of gross income tax liability, is equal to the percentage of the taxpayer's gross income that is attributable to the taxpayer's business entity through which the taxpayer provided the funding for the qualified project. For purposes of determining the amount of gross income tax liability to which a credit allowed pursuant to this section may be applied, gross income shall be calculated without the application of exclusions or deductions.

c. The credit allowed to a business entity under this section may not exceed for any taxable year \$1,000,000 or the total amount of tax otherwise payable by the business entity for the taxable year and, in addition, shall not exceed limitations placed on the amounts of credits or carryforward credits allowed, if any, under the relevant statute as enumerated in subsection b. of this section concerning the tax for which a credit is being claimed.

d. Credit shall not be allowed for activities for which the business entity is receiving credit under any other provision against any tax on business related income including, but not limited to, the corporation business tax, New Jersey gross income tax, corporate income tax, insurance premiums tax, petroleum products gross receipts tax, public utilities franchise tax, public utilities gross receipts tax, public utility excise tax, railroad franchise tax, and the saving institution tax.

e. The tax credit shall be awarded only for assistance provided within the same year in which the commissioner issued the certificate, or if the commissioner approved assistance for more than one year, within the year in which payment was scheduled and made. The provisions of this subsection may be waived for good cause shown.

f. The total tax credits certified for all qualified projects proposed in a fiscal year shall not exceed **[\$10,000,000]** \$15,000,000.

(cf: P.L.2013, c.61, s.1)

3. Section 5 of P.L.2001, c.415 (C.52:27D-494) is amended to read as follows:

5. a. The department shall determine whether a neighborhood preservation and revitalization plan should be approved. The department shall approve a neighborhood preservation and revitalization plan if it satisfies the following standards:

(1) the plan designates an eligible neighborhood; and

(2) The plan was developed through a process that

(a) gave written notice to the municipality in which the neighborhood is located of its intention to develop a plan and utilized reasonable means to inform residents, property owners, and businesses in the neighborhood of its intention to develop a plan and provided opportunities for them to participate in the development of the plan;

1 (b) gave written notice to the municipality in which the
2 neighborhood is located of the proposed plan and provided an
3 opportunity for it to comment upon it orally and in writing,
4 complied with all of the requirements of the "Municipal Land Use
5 Law," P.L.1975, c.291 (C.40:55D-1 et seq.) concerning the plan,
6 utilized reasonable means to inform residents, property owners, and
7 businesses in the neighborhood of the proposed plan and provided
8 an opportunity for them to comment upon it orally and in writing;
9 and

10 (c) involved consultation with nonprofit organizations located
11 within the neighborhood or providing services to residents of the
12 neighborhood;

13 (3) The plan is not inconsistent with

14 **[(a)]** any redevelopment plan adopted pursuant to the
15 "Local Redevelopment and Housing Law," P.L.1992, c.79
16 (C.40A:12A-1 et seq.), and currently being implemented **];** or

17 (b) any neighborhood empowerment plan approved by the State
18 pursuant to section 49 of P.L.1996, c.62 (C.55:19-64)**];**

19 (4) The plan sets forth an overall concept of the future of the
20 neighborhood; one or more strategies to foster preservation and
21 revitalization of the neighborhood in accordance with that concept;
22 one or more activities, including housing and economic
23 development activities and other preservation and revitalization
24 activities proposed within the neighborhood to foster preservation
25 and revitalization of the neighborhood in furtherance of those
26 strategies, including a description of funding sources obtained or to
27 be sought for the planned activities and a timetable for the conduct
28 of those activities; and

29 (5) The plan covers a period of **[no less than two and]** no more
30 than ten years.

31 b. A nonprofit organization may, in submitting a proposed plan
32 pursuant to P.L.2001, c.415 (C.52:27D-490 et seq.), adopt a
33 redevelopment plan adopted pursuant to the "Local Redevelopment
34 and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), and
35 currently being implemented **];** or a State-approved neighborhood
36 empowerment plan pursuant to section 49 of P.L.1996, c.62
37 (C.55:19-64)**],** as its neighborhood preservation and revitalization
38 plan or a neighborhood preservation and revitalization plan
39 previously approved by the department.

40 c. A nonprofit organization that has submitted a neighborhood
41 preservation and revitalization plan to the department may seek to
42 amend it at any time. The department shall approve amendments if
43 they comply with the standards set forth in subsection a. of this
44 section.

45 (cf: P.L.2003, c.59, s.2)

46

47 4. Section 7 of P.L.2001, c.415 (C.52:27D-496) is amended to
48 read as follows:

- 1 7. a. The commissioner shall determine, in accordance with law
2 and regulation, whether to issue a certificate based upon proposed
3 assistance by a business entity to a nonprofit organization to
4 implement a qualified project.
- 5 b. The commissioner shall issue a certificate if the proposed
6 assistance satisfies the following standards:
- 7 (1) The assistance is to be used for a qualified neighborhood
8 preservation and revitalization project;
- 9 (2) The assistance is not less than \$25,000 in each tax year for
10 which credit is sought. Assistance may be approved for the current
11 tax year and up to four additional years in the future. If assistance
12 is approved for years other than the current tax year, the approval
13 shall include a schedule showing the amount of assistance to be
14 provided in each year;
- 15 (3) Neither the business entity nor any wholly owned subsidiary
16 has previously failed to provide assistance to a nonprofit
17 organization for which approval was granted. This requirement
18 may be waived by the department upon a showing of good cause;
19 and
- 20 (4) The total of all assistance approved on behalf of a nonprofit
21 organization per project does not exceed \$1,000,000.
- 22 c. Within **【60】** 30 days from the date of issuance of the
23 certificate, the business entity shall pay the amount specified in the
24 certificate that is due in the current tax year to the department for
25 deposit into the Neighborhood Revitalization Non-lapsing Trust
26 Fund created pursuant to section 5 of P.L.2003, c.59 (C.52:27D-
27 500). In the case of assistance approved for years other than the
28 current tax year, the business entity shall pay the amount specified
29 no later than the anniversary of the date on which the first payment
30 is due. The commissioner may extend the date payment is due for
31 good cause shown, but no extension shall be granted where the
32 business entity did not submit a written request for the extension at
33 least **【fifteen】** seven days prior to the date payment is due.
- 34 d. The commissioner shall issue certificates to business entities
35 applying for certificates and meeting the requirements of this
36 section, up to the maximum amount of tax credits permitted under
37 section 3 of P.L.2001, c.415 (C.52:27D-492), in the following
38 order:
- 39 (1) those business entities specifying a project which has been
40 approved by the department and providing assistance which is equal
41 to the amount requested by the nonprofit organization submitting
42 the project.
- 43 (2) those business entities not specifying a particular project, but
44 which are willing to provide assistance for approved projects
45 seeking assistance. The commissioner shall issue each business
46 entity providing assistance with a certificate specifying the project
47 to which the assistance will be provided and shall pool applications

1 by business entities in order to provide the amount of assistance
2 requested by each nonprofit organization submitting each project.

3 (3) those business entities not specifying a particular project, but
4 which are willing to provide assistance, and for which no project
5 approved by the department is available. The commissioner shall
6 issue the certificate without specifying the project to which the
7 assistance will be provided, and will deposit the amount set forth in
8 the certificate in the Neighborhood Revitalization Non-lapsing
9 Trust Fund created pursuant to section 5 of P.L.2003, c.59
10 (C.52:27D-500) in accordance with the provisions of this section.

11 e. In any year that the dollar amount of assistance sought by
12 approved projects shall exceed the amount of assistance available,
13 the department shall allocate any funds in the trust fund for which
14 no project has been specified to provide assistance to such projects.
15 At such time the department will issue the business entity an
16 amended certificate specifying the project for which the assistance
17 is being provided.

18 f. The department shall use any interest earnings on the funds
19 in the trust fund in any manner that lawfully furthers the purposes
20 of P.L.2001, c.415 (C.52:27D-490 et seq.), including, but not
21 limited to, providing funds to qualified entities to provide training
22 and technical assistance to nonprofit organizations eligible to
23 prepare plans and submit projects under P.L. 2001, c. 415 (C.
24 52:27D-490 et seq.).

25 (cf: P.L.2003, c.59, s.3)

26

27 5. Section 9 of P.L.2001, c.415 (C.52:27D-498) is amended to
28 read as follows:

29 9. a. In order to administer the neighborhood preservation and
30 revitalization tax credit program, the department shall establish any
31 necessary forms, procedures or rules to effectuate **[this act]**
32 P.L.2001, c.415 (C.52:27D-490 et seq.), in accordance with the
33 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
34 seq.). The department shall seek to foster use of the tax credit and
35 to make the tax credit simple to apply for and simple to use.

36 b. The department shall act as a clearinghouse. It shall
37 maintain lists of qualified projects and of business entities that have
38 expressed a desire to provide assistance to qualified projects. The
39 department shall pool applications from business entities in order to
40 provide assistance to qualified projects as provided in section 7 of
41 P.L.2001, c.415 (C.52:27D-496).

42 c. The department shall give priority in processing to
43 applications that demonstrate a multi-year commitment by the
44 business entity to implementation of the neighborhood preservation
45 and revitalization plan.

46 d. The department shall submit to the Governor and Legislature
47 an annual report which shall include at least:

48 (1) the purpose and effectiveness of the credit;

1 (2) the benefits of the credit to the State;

2 (3) any recommendations by the department as to changes in
3 legislation needed to better carry out the purposes of P.L.2001,
4 c.415 (C.52:27D-490 et seq.).

5 e. For each application by, or on behalf of, a business entity to
6 approve assistance for a project, the department may charge a fee of
7 up to **[1.5]** five percent of the amount of assistance proposed, or
8 approved, whichever is less, to pay for the administration of this
9 program. The department may require that up to one third of this
10 amount be paid at the time of submission of the application or
11 declaration of intent, and that the balance be taken from the amount
12 deposited into the trust fund upon deposit therein.
13 (cf: P.L.2003, c.59, s.4)

14

15 6. This act shall take effect immediately.

16

17

18

STATEMENT

19

20 This bill revises the neighborhood revitalization tax credit
21 program to increase the total amount of tax credits that may be
22 annually awarded, amend the definition of an eligible
23 neighborhood, and provide certain other changes.

24 The neighborhood revitalization tax credit program provides tax
25 credits to business entities that provide financial assistance to non-
26 profit organizations to support housing and economic development
27 projects in eligible neighborhoods. Under current law, the State
28 may annually allocate a maximum of \$10 million in neighborhood
29 revitalization tax credits. The bill increases this amount to \$15
30 million per fiscal year. This revision is intended to allow the State
31 to expend the \$15 million in neighborhood revitalization tax credits
32 that were anticipated in the FY2019 budget.

33 The bill also amends the definition of an “eligible neighborhood”
34 for the purposes of the neighborhood revitalization tax credit
35 program. Provided certain exceptions, an eligible neighborhood is
36 currently required to be located in: (1) a municipality that was
37 previously eligible for “Special Municipal Aid,” or (2) a school
38 district that previously qualified as an “Abbott district.”

39 The bill instead provides that an eligible neighborhood includes
40 any contiguous area located in one or more municipalities that is
41 designated by the Commissioner of Community Affairs based on
42 factors including, but not limited to: population change, non-
43 seasonal housing vacancy rates, total household and child recipients
44 of the Temporary Assistance for Needy Families or a successor
45 program, poverty levels, unemployment rates, high school
46 completion rates, median household income, property tax rates, and
47 equalized property valuation per capita.

- 1 In addition, the bill makes the following revisions to the
2 neighborhood revitalization tax credit program:
- 3 (1) reduces the period of time in which a business entity is
4 required to provide program funding from 60 days to 30 days
5 following the receipt of a tax credit certification;
- 6 (2) reduces the period of time in which a business entity may
7 request a payment extension from 15 days to seven days prior to the
8 payment due date;
- 9 (3) increases the application fee that may be imposed by the
10 Department of Community Affairs to support the administrative
11 costs of the program;
- 12 (4) replaces reference to “neighborhood empowerment plans,”
13 which are no longer in effect;
- 14 (5) removes the requirement that a neighborhood preservation
15 and revitalization plan cover a period of no less than two years; and
- 16 (6) removes reference to “The Savings Institution Tax Act,”
17 which was repealed in 2002.